THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.975 of 2007

Dated: 27-11-2007

Between:

1.District Cooperative Central Bank Ltd.,
East Godavari District at Nagamalli Thota,
Kakinada, rep. by its President and another.

.... Appellants

AND

Yaga Burayya.

.....Respondents

THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.975 of 2007

Dated: 27-11-2007

Judgment: **(Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)**

This Writ Appeal has been filed by the appellant-review petitioner aggrieved by an order dated 20-08-2007 passed by a learned single Judge of this Court in Rev.W.P.M.P.

20774 of 2007 in W.P.No.11849 of 2006.

Heard the learned Counsel for the parties. With their consent, the Writ Appeal is disposed of at this stage. For the sake of convenience, the parties shall be hereinafter referred to as arrayed in the Writ Petition.

The facts of the case reveal that the writ petitioner, who was an employee of the respondent-Bank, faced enquiry on the ground of misappropriation of funds, and the enquiry officer held that the charges were proved and issued show cause notice dated 28-07-2004. The petitioner filed his explanation, which according to him, was not considered, and he was terminated from service. Aggrieved thereby, he filed an appeal before the first respondent, who disposed of the same on
05-09-2005 ordering denovo enquiry. The petitioner filed Writ Petition No.11849 of 2006, which was disposed of on
03-07-2007 directing the respondents to consider that the petitioner is under deemed suspension in view of the revocation of dismissal order by the appellate authority and also to pay subsistence allowance as per his eligibility, during pendency of the enquiry. Aggrieved thereby, the respondents-authorities filed Review W.P.M.P.No.20774 of 2007, which was dismissed. Hence, the present Appeal.

The learned Counsel for the respondents-authorities submits that the enquiry is

pending. He also submits that the writ petition was not maintainable in view of the earlier judgments of this Court.

But, prima facie, we find that there has been violation of statutes by denying the subsistence allowance to the writ petitioner. After the denovo enquiry was ordered, the writ petitioner was either to be reinstated or he was deemed to be under suspension. In any case, he is entitled to subsistence allowance.

The learned Counsel for the respondents further submits that during pendency of the second enquiry, the writ petitioner has attained superannuation on 31-07-2007.

In these circumstances, we modify the order dated 03-07-2007 passed by the learned single Judge in W.P.No.11849 of 2006 to the extent that the writ petitioner shall be entitled to subsistence allowance with effect from the date of his termination till the date of his superannuation.

The Writ Appeal is, accordingly, disposed of. No costs.

(Bilal Nazki, A.C.J)

Dated 27th November, 2007

(Ramesh Ranganathan, J)

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